near the assets of the estate who was willing to serve." At the close of the election the referee announcd that one Sapper, who lived in Y county, had received the votes of a majority of the number of creditors and of the amount of the claims, yet, for the reason he had stated, he would not approve of the election, and appointed one Steele. No objection to Sapper's competency was taken. *Held,* that the referee was not justified in refusing to ratify the election solely because the one elected did not reside in the county where the assets are situated. *In re Jacobs & Roth* (1907), — D. C., W. D., Pa. —, 154 Fed. Rep. 988.

Although Steele was not ousted, it was only by reason of the peculiar situation that he was allowed to continue to act as trustee, and the court said the fact there was no ouster must not be regarded as a precedent. The creditors alleged that the trustee had disposed of the bankrupt's estate without notice to them, and if this were the case and the amount realized from the estate should prove inadequate by reason thereof, a personal liability to the creditors might attach to the trustee. The method of appointing officers to administer the assets of bankrupts has been a bone of contention. The English system has vacillated between commissioners of the court's own choosing, and that through trustees chosen by the creditors. The present practice is for the official receiver, who is an officer of the Board of Trade, to take charge of the estate till the creditors choose a trustee. And even then the Board of Trade may certify objections to the High Court, which the latter may hold sufficient. If after four weeks the creditors have not appointed, the Board of Trade may appoint, subject, however, to a right in the creditors to appoint a trustee in his stead. This seems to be substantially the procedure followed in the continental countries. COLLIER ON BANKR. (6th ed.), pp. 376, 377. Our law has also changed. It was only after 1867 that the bankrupt's estate was considered as a trust, and the creditors as beneficiaries entitled to choose their own trustees. The present law provides that "the creditors of a bankrupt estate shall * * * appoint one trustee or three trustees." Bankr. Act, July 1, 1898, c. 541, § 44, 30 Stat. 557, U. S. Comp. St. 1901, p. 3438. It would seem from this that there could be no semblance of right in a court or referee to interfere, though some, basing their opinion on the last sentence in § 2, think the right is inherent in the court. COLLIER ON BANKR. (6th ed.), p. 377.

BILLS AND NOTES—GENUINE DRAFT WITH FORGED BILL OF LADING.—A draft with an indorsed bill of lading attached was discounted by the defendant bank. The draft and bill of lading were then forwarded and presented by the bank to the drawee, by whom the draft was accepted and paid in reliance upon the attached bill of lading. It was subsequently discovered by the drawee that the bill of lading was forged, whereupon action was brought to recover from the payee the amount paid. *Held* (PROVOSTY and MONROE, JJ., dissenting), that there could be no recovery. *Varney* v. *Monroe Nat. Bank; In re Varney* (1907), — La. —, 44 So. Rep. 753.

The payee has a right to assume that any draft he receives and forwards, which is accepted and paid, is a draft which, from the state of the dealings between the drawer and drawee, it is right and proper the latter should pay as

the principal party; and the presumption of law that such is the case is a complete protection to the payee if he received the bill in the ordinary course of business and for value. *First Nat. Bank of Detroit* v. *Burkham,* 32 Mich. 328. The decision in the principal case is undoubtedly in accord with the weight of authority. *Young* v. *Lehman,* 63 Ala. 519; *Goetz* v. *Bank of Kansas City,* 119 U. S. 551; *Hoffman* v. *Bank of Milwaukee,* 12 Wall. (U. S.) 181; *Baxter* v. *Chapman,* 29 L. T. Rep. N. S. 642, 2 Asp. Cas. 170; *Leather* v. *Simpson,* L. R. 11 Eq. 398, 40 L. J. Ch. N. S. 177; *Thiedemann* v. *Goldschmidt,* 1 H. & C. 478, 1 De G. F. & J. 4; *Robinson* v. *Reynolds,* 3 P. & D. 611. After a draft to which a bill of lading is attached is accepted the consignee becomes absolutely liable on the acceptance, and after payment thereon is made he cannot recover it back, notwithstanding any failure of consideration between him and the drawer. *Kelly* v. *Lynch,* 22 Cal. 661; *Craig* v. *Sibbett,* 15 Pa. 238; *Bockoren* v. *National Mechanics' & Traders' Bank,* 11 Wkly. Notes Cas. (Pa.) 570; *Lewis* v. *Small* (Tenn.), 96 S. W. Rep. 1051, 6 L. R. A. (N. S.) 887; *Randolph* v. *Merchants' Nat. Bank,* 7 Baxt. (Tenn.) 458; *S. Blaidsdell, Jr., Co.* v. *Citizens Nat. Bank,* 96 Tex. 626, 62 L. R. A. 968. A tendency toward an opposite ruling, however, is found in a number of cases. *Finch* v. *Gregg,* 126 N. C. 176, 49 L. R. A. 679; *Hass* v. *Citizens Bank,* 144 Ala. 562, 1 L. R. A. (N. S.) 242; *Landa* v. *Lattin,* 19 Tex. Civ. App. 246, 46 S. W. Rep. 48.

BILLS AND NOTES—RELEASE OF INDORSERS.—The payee of a note of a corporation agreed with one of several accommodation indorsers thereon that if he would pay the note as soon as possible within sixty days, other notes would be extended. *Held,* that such an agreement did not release the other indorsers where the note was duly protested and notice thereof given. *First Nat. Bank of York* v. *Diehl* (1907), — Pa. —, 67 Atl. Rep. 897.

It was successfully contended by the defendants in the court below that they were discharged from liability upon the ground that such an agreement was equivalent in legal effect to the giving of time to the maker. It is a well settled principle of the law merchant that an indorser may be discharged by the holder of a negotiable instrument giving an extension of time for payment to the maker. *Warner* v. *Campbell,* 26 Ill. 282; *Scoville* v. *Landon,* 50 N. Y. 686; *Hamilton* v. *Prouty,* 50 Wis. 592; *Wood* v. *Jefferson County Bank,* 9 Cow. (N. Y.) 194; *Gould* v. *Robson,* 8 East 576. In any event an agreement for extension of time of payment, in order to discharge a surety, must be such as to change the contract of the principal, and put it out of the holder's power to enforce it during the time of forbearance agreed on. *Buchanan* v. *Bordley,* 4 Harr. & M. (Md.) 41; *Norris* v. *Crummey,* 2 Rand. (Va.) 323; *McCune* v. *Belt,* 38 Mo. 281; *Parnell* v. *Price,* 3 Rich. Law (S. C.) 121; *Newell* v. *Hamer,* 4 How. (Miss.) 684; *Ripley* v. *Greenleaf,* 2 Vt. 129. The position taken by the court, that the protesting of the note fixed the status of the parties and the liability of the indorsers so that the holder might then have proceeded against the maker, or against the indorsers jointly, is undoubtedly correct.

CARRIERS—REFUSAL TO GIVE TRANSFER—PASSENGER'S MOTIVE IN REQUESTING.—Where plaintiff rode on a street car and asked for a transfer purposely